

REMARKS/ARGUMENTS

The specification has been amended to make editorial changes to place the application in condition for allowance at the time of the next Official Action.

Claims 1-6 were previously pending in the application. Claims 7-18 are added. Therefore, claims 1-18 are presented for consideration.

Claims 1-6 are amended to address the 35 U.S.C. §112, second paragraph rejections noted in the Official Action.

Claims 1-3 are rejected as being clearly anticipated by STURIAUGSON 4,608,769.

Reconsideration and withdraw of the rejection are respectfully requested because the reference does not disclose or suggest means for guiding the heel of the user's foot as the user inserts the foot into the shoe as recited in claim 1 of the present application.

Claim 1 is written in 35 U.S.C. §112, sixth paragraph format. Therefore, the applied art must teach or suggest "corresponding structure described in the specification or equivalent thereof." Thus, the analysis must be on the structure described in the specification or equivalent structures.

Consideration should be given to the supplemental examination guidelines for determining applicability of 35 U.S.C. § 112, paragraph six, as issued on June 16, 2000.

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The supplemental examination guidelines have been so modified to state that if the Examiner finds that (1) the prior art element performs the claimed function (2) the prior art is not excluded by any explicit definition provided in the specification from the equivalent, and (3) the prior art element is an equivalent, the Examiner should provide an explanation and rationale in the Official Action as to why the prior art element is equivalent to the claimed means.

Page 3, lines 5-8 of the present application state that if a person should become disabled they may fit a shoe horn attachment of the invention to each of their existing shoes, thereby avoid the need to buy special shoes of the type disclosed in U.K. Patent Application No. 9018750.1.

U.K. 9018750.1 teaches an integral shoe horn similar to STURLAUGSON. Specifically, column 2, lines 43-47 of STURLAUGSON disclose that a unique feature is that a somewhat rigid shoe horn shaped counter is integrated with the quarter portion of the shoe.

Accordingly, STURLAUGSON teaches an integral shoe horn which is specifically excluded as an equivalent element because an integral shoe horn is not an attachment but is part of a special shoe. STURLAUGSON only teaches an integral shoe horn and does not disclose or suggest a means for guiding the heel of a user's foot as a user inserts the foot into a shoe as disclosed

what does this have to do with means for guiding the heel

Applicant's would perform this function whether it was removable or integral

on page 4, line 21-24 and page 6, line 20-23 of the present application.

*appears to be
the same*

Claims 2 and 3 depend from claim 1 and further define the invention and are also believed patentable over STURLAUGSON.

Claims 1-4 and 6 are rejected as anticipated by SESSA UK 2235360.

Reconsideration and withdrawal of the rejection are respectfully requested because the reference does not disclose or suggest means for guiding the heel of the user's foot as the user inserts the foot into the shoe as recited in claim 1 of the present application.

The abstract and page 6, line 5 of SESSA teach an integral shoe horn. The comments above regarding the 35 U.S.C. §112, sixth paragraph analysis as it applies to STURLAUGSON also applies to SESSA.

*What
guide
means*

Claims 2-4 and 6 depend from claim 1 and further define the invention and are also believed patentable over SESSA.

Claims 1-6 are rejected as anticipated by MANCINELLI 4503628. This rejection is respectfully traversed.

As noted above, claim 1 is written in 35 U.S.C. §112, sixth paragraph format and recites a means for guiding a user's foot as a user inserts the foot into the shoe. As seen in Figure 1 of the present application, the means for guiding includes upper back portion 2a. As disclosed on page 4, lines 28-31 of

the present application, the back portion of the shoe horn attachment 8 is higher than the back of the upper of the shoes so that when the attachment 8 is located within a shoe, the upper back portion 2a of the attachment protrudes above the rim 4 of the shoe.

As further disclosed on page 7, lines 8-24 of the present application, the upper portion 2a of the back portion 2 of the shoe horn 8 is shaped in a manner of a conventional shoe horn and serves to guide the users foot into the shoe. The shaping of the upper portion 2a with the back of the attachment 8 means that the pressure exerted by the heel of the user's foot will cause the back part of the upper of the shoe to flex backwards slightly making it easier for the user to insert their foot into the shoe to clip their foot into the shoe horn attachment. Once the user's foot is in place in the shoe, the user's foot will no longer assert pressure on the upper part 2a of the attachments so that the shoe will revert to its original shape and so grip the user's foot securely.

Claim 3, lines 10-24 of MANCINELLI et al. disclose, for example, a reversely formed flange 28 which defines a downwardly facing channel or groove 28 that engages the rim of the shoe to reinforce and stiffen the engaging area 12 of the shoe upper and provide a continuous smooth and reduced friction surface for facilitating the insertion of the foot into the shoe.

Accordingly, MANCINELLI teaches a stiffener that also has a smooth surface for the foot to more easily slide into a shoe. However, MANCINELLI et al. do not teach the specific structure (upper back portion 2a) of the means for guiding as disclosed on page 7, lines 8-24 of the present application.

Claims 2-6 depend from claim 1 and further define the invention and are also believed patentable over MANCINELLI et al.

Claims 1-4 are rejected as being anticipated by STEWART 6,426,132. This rejection is respectfully traversed.

STEWART neither discloses an equivalent means for guiding as disclosed on page 7 lines 8-24 of the present application nor does STEWART disclose at least one fastener for securing an attachment to a shoe.

STEWART discloses a shoe horn having a backing layer 3 and a foot contact layer 4. Column 4, lines 27-40 of STEWART disclose that the foot contact layer 4 includes a laminate surface 4b which adheres to a laminate of surface 3b of the backing layer by means of glue or any other suitable device or the foot contact layer can be stitched or otherwise attached to the backing layer. STEWART does not disclose or suggest that the backing layer or that any layer is a fastener for securing the attachment to a shoe as recited in claim 1.

Claims 2-4 depend from claim 1 and further define the invention also believed patentable over STEWART.

Since none of the cited prior art discloses the recited means for guiding the heel of the user's foot and since the reference to STEWART also does not disclose at least one fastener for securing the attachment to a shoe, the anticipation rejections are not viable. Reconsideration and withdrawal of the rejections are respectfully requested.

New claim 7 recites that an upper back portion extending obliquely from the back portion outside of a rim of a shoe of a user when the attachment device is attached to the shoe of a user and a fastening device for detachably securing the attachment device to a shoe of a user. As noted above regarding the 35 U.S.C. §112, sixth paragraph analysis, these combination of features are not disclosed or suggested by the references.

Claim 8 further recites a base portion connected between a left and right portions essentially parallel to heel of the shoe of the user. Claim 9 recites an essentially inverted V-shaped retaining member hanging over a rim of the shoe of the user. Claim 10 recites a wing member extending laterally from the retaining member. Claim 13 recites a railroad projecting portion extending from the upper back portion (element 2c of figure 4b).

New claim 14 also recites a base portion between the left and right portions essentially parallel to the heel of a shoe of a user and an upper back portion extending from the back portions of substantially outside of a rim of the shoe, the device being removable. New claims 15-18 depend from claim 14 and further define the invention.

None of the above features are disclosed in the references and thus these claims are believed patentable regardless of the patentability of the claims from which they depend. Accordingly, it is believed that the new claims avoid the rejection under §102 and are allowable over the art of record.

In view of the present amendment and foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

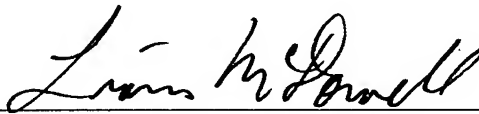
Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Application No. 10/000,027
Amdt. dated April 15, 2003
Reply to Office Action of January 15, 2003
Docket No. 3008-1015

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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LM/psf